

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **February 11, 2003**

AGENDA ITEM NO.: 22

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Rental Property Registration and Inspections and Rental Housing Inspector**

RECOMMENDATION: Revise Lynchburg City Code Chapter 11 Building, Division 3 Rental Property inspections to include rental property registration and related code enforcement fees. Appropriate funds to hire a Rental Housing Inspector.

SUMMARY: Council has previously approved in concept changes to the Rental Inspection Program to establish a registry of rental property, an annual fee of \$25 per rental unit, and the hiring of an additional inspector for the program. HB1678, currently before the General Assembly, would negatively impact this program. Accordingly, if Council adopts the proposed revisions, an implementation date of April 1 is recommended.

PRIOR ACTIONS: The Department of Community Planning & Development created a Rental Inspection Program in 1987 applying the BOCA Property Maintenance Code. The program required the bi-annual inspection of rental properties in the Low-Income Census Tracts located in the center city neighborhoods. Two housing inspectors were hired in 1987. In 2000, City Council approved the addition of a Senior Property Maintenance Inspector, Bob Drane, to oversee the program. In addition, one administrative position was eliminated and replaced with a vacant housing coordinator, Sharon Phillips. A new Building Official, Karl Cooler, was hired in 2002. A presentation was made to Council in a work session on October 29, 2002 to discuss proposed changes to the rental property inspections program. This item is the follow-up to Council's direction to proceed.

FISCAL IMPACT: Increase City revenues by charging a registry fee of \$25.00 per rental unit. This program would initially be limited to the rental zones as defined in the current ordinance, an estimated 3455 rental units and generate approximately \$86,000 annually in revenue. An additional housing inspector would be hired as part of this program at a cost of \$37,500 per year. A one-time appropriation is being requested in the amount of \$45,520 to hire and equip the inspector as of April 1 and fund through June 30. The recurring costs have been submitted with the FY 04 budget proposal. The annual cost to operate the entire housing inspections program is estimated at \$286,500.

CONTACTS: Rachel Flynn (847-1435 ext. 253), Karl Cooler (847-1572 ext. 248)

ATTACHMENTS: Resolution, Revised Ordinance – Chapter 11 Building, Division 3, Rental Property Registration and Inspections

REVIEWED BY: lkp

A.

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTIONS 11-62.1, 11-62.2, 11-62.3, 11-62.4, 11-62.5, 11-62.6, 11-62.8, 11-62.9, 11-62.10, 11-62.11 AND 11-62.12 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTION RELATING TO RENTAL PROPERTY REGISTRATION AND INSPECTIONS AND ADDING THERETO A NEW SECTION RELATING TO PERMITS FOR RENTAL PROPERTIES.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. THAT SECTIONS 11-62.1, 11-62.2, 11-62.3, 11-62.4, 11-62.5, 11-62.6, 11-62.8, 11-62.9, 11-62.10, 11-62.11 AND 11-62.12 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, BE AND THE SAME ARE HEREBY AMENDED, ADDED AND REENACTED AS FOLLOWS:

DIVISION 3. RENTAL PROPERTY REGISTRATION AND INSPECTIONS.

Sec. 11-62.1. Definitions.

(a) Generally. Certain words and phrases used in this division shall have the meanings prescribed to them by this section, except in the instances where the context clearly indicates a different meaning.

(b) ~~Director. The word "Director" shall mean the Director of the department of Community Planning and Development, or such employee(s) of the department of community planning and development as the Director may designate to administer and enforce this division.~~ Building official. The officer or other designated authority charged with the administration and enforcement of this ordinance and the USBC, or a duly authorized representative.

(c) ~~Dwelling. The word "dwelling" shall mean any building or structure which meets the definition of "dwelling" found in Article 2 of the Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code.~~ Certificate of compliance. A certificate of compliance will be issued after a dwelling unit has been inspected by the inspections division and has no violations outstanding. The unit may be rented.

(d) ~~Certificate of registration. The building official will issue a certificate of registration after the inspections division has received a completed registration form and accompanying certification that the property meets the minimum habitable standards. A certificate of registration will be issued in place of a certificate of compliance where a rental dwelling unit has not been inspected by City of Lynchburg inspectors. The unit may be rented.~~

(d) (e) ~~Dwelling unit. The word "dwelling unit" shall be as defined by Article 2 of the Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code.~~ A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(f) Inspections division. The section of the department of community planing and development responsible for enforcement of the property maintenance code of the City of Lynchburg.

(g) Minimum habitable standards. The requirements for compliance as outlined in Part III, USBC, Maintenance of Existing Structures, Part IV, USBC, Technical Amendments, and Chapters 3 through 7 of the BOCA National Property Maintenance Code, 1996 Edition as adopted by the USBC.

~~(e) Managing agent. The word "managing agent" shall mean any individual, association of individuals, corporation, partnership or other entity having the authority, singly or in combination with another, to enter into any agreement for the occupancy of property subject to this division.~~

~~(f) (h) Owner. The word "owner" shall mean any individual or individuals, corporation, partnership or other entity, jointly or severally, in whom is vested all or part of the legal title to property, or all or part of the beneficial ownership and a right to present use and enjoyment of property that is subject to this division, including a mortgagee. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee or lessee in control of a building or structure.~~

~~(g) (i) Property. The word "property" shall mean dwellings and dwelling units which are leased or rented in whole or in part, to tenants for valuable consideration. The word "property" shall include dwellings dwelling units occupied under a lease/purchase agreement.~~

~~(j) USBC. Virginia Uniform Statewide Building Code.~~

Sec. 11-62.2. Effective date and applicability.

In order to protect the public health, safety and welfare the areas described in this section are designated as conservation and rehabilitation areas as provided by Section 36-105 of the Code of Virginia for the purpose of conducting inspections at specific time intervals in order to determine that the buildings are in compliance with current building code regulations. The provisions of this division ~~shall become effective on January 1, 1994, and shall be applicable to all dwellings and dwelling units that are located in the following areas of the city:~~

That area of the city designated as census tract #2.03 by the ~~1990~~ 2000 Census Data.

That area of the city designated as census tract #4 by the ~~1990~~ 2000 Census Data.

That area of the city designated as census tract ~~#5.98~~ #5.00 by the ~~1990~~ 2000 Census Data.

That area of the city designated as census tract #6 by the ~~1990~~ 2000 Census Data.

That area of the city designated as census tract #7 by the ~~1990~~ 2000 Census Data.

That area of the city designated as census tract #11 by the ~~1990~~ 2000 Census Data.

That area of the city designated as census tract #12 by the ~~1990~~ 2000 Census Data.

That area of the city designated as census tract #13 by the ~~1990~~ 2000 Census Data.

~~The census tracts identified above encompass that area of the City beginning at the intersection of Concord Turnpike and Rockwell Road north along a unnamed creek to the James River and the corporate limits of the City, thence northwest along the corporate limits to the Norfolk Southern Railway tracks near Riverside Park, thence south along said tracts to Blackwater Creek, northwest along Blackwater Creek to an unnamed tributary creek, along said tributary southwest to the intersection of Page Street and Middlesex Avenue, northwest on Page Street to Atherholt Road following said road southeast to Langhorne Road; continuing on Langhorne Road southeast to Murrell Road, southwest on Murrell Road to Lakeside Drive and Allegheny Avenue, thence southeast on Allegheny Avenue to Memorial Avenue; southwest on Memorial Avenue to Twelfth Street continuing on Twelfth Street to its intersection with the Norfolk Southern Railway tracks, south along said tracts to a railroad intersection continuing southeast along Norfolk Southern Railway tracks to their intersection of Martin Street and Old Courthouse Turnpike; thence north on Old Courthouse Turnpike to the 460 By-pass and Terry Court continuing north to Martin Street and Campbell Avenue; then proceeding across Campbell Avenue to Florida Avenue, north on~~

~~Florida Avenue to the bridge over the Norfolk Southern Railway tracks thence east along the unnamed creek to the point of beginning. The census tracts identified above encompass that area of the city beginning at the eastern corporate limit of the city, thence northwest along the James River and the corporate limits of the city to the Norfolk Southern Railway tracks near Riverside Park, thence south along said tracks to Blackwater Creek, northwest along Blackwater Creek to an unnamed tributary creek, along said tributary southwest to the intersection of Page Street and Hillcrest Avenue, northwest on Page Street to Tate Springs Road following said road southeast to Langhorne Road; continuing on Langhorne Road southeast to Memorial Avenue, southwest on Memorial Avenue to Fort Avenue continuing northeast on said road to its intersection with Rutherford Street, continuing on Rutherford Street southeast to its intersection with Craighill Street, thence southeast on Craighill Street to its intersection with Edley Place, continuing southeast on Edley Place to its intersection with the Norfolk Southern Railway tracks, south along the said tracks to a railroad intersection, continuing southeast along Norfolk Southern Railway tracks to their intersection with the southeastern corporate limits of the city; thence northeast along the corporate limits of the city to the point of beginning. They also encompass an area of the city that begins at the intersection of Lakeside Drive and Breckenbridge Street, thence west along Lakeside Drive to its intersection with Blackwater Creek, southwest along Blackwater Creek to an unnamed tributary creek, southeast along said tributary to a point of intersection with College Street, thence northeast along College Street to its intersection with Westwood Avenue, continuing southeast on Westwood Avenue to its intersection with Thomas Road, thence northeast along Thomas Road to its intersection with Brevard Street, continuing northwest along Brevard Street to its intersection with College Street, thence northeast along College Street to its intersection with Vernon Street, continuing southeast along Vernon Street to its intersection with College Drive, thence north along College Drive to its intersection with Breckenbridge Street, continuing northwest along Breckenbridge Street to the point of beginning.~~

Sec. 11-62.3. ~~Certificate of occupancy/certificate of compliance~~ Registration of rental property required.

(a) No owner, managing agent, or other person in control of any ~~dwelling or~~ dwelling unit located in the areas covered by this division shall make such property initially available as rental property until said ~~dwelling or~~ dwelling unit shall have been inspected registered with the director building official prior to occupancy, and shall have been determined to have been The owner or agent shall certify on a registration form provided by the director building official that he/she has been made aware of the minimum habitable standards as outlined in Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and that the rental property to be registered meets these standards and is in compliance with Volume II – Building Maintenance Code of the Virginia Uniform Statewide Building Code these provisions and all other applicable codes, standards and ordinances. Such Receipt of this certification compliance shall be evidenced by a certificate of ~~occupancy or certificate of compliance~~ registration issued by the ~~director of community planning and development building official~~ and to be displayed in the rental unit.

(b) Except in the case of an emergency involving a threat to life and property, as determined by the ~~director of the department of community planning and development building official~~, no electric power company or gas company shall commence initial electrical or gas service to a dwelling or dwelling unit subject to this division, or continue service unless or until a valid certificate of ~~occupancy or temporary certificate of occupancy or certificate of compliance~~ registration has been issued for such property. The ~~director shall promptly notify the electrical power company or gas company of the issuance of a certificate of occupancy or temporary certificate of occupancy or certificate of compliance.~~ 94)

Sec. 11-62.4. Notice by owner, etc.

(a) On or before January 1 of each year, the owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, shall furnish the department of community planning and development, in writing, with a ~~list of~~ registration renewal form provided by the building official director for all rental properties that they own or manage in those areas of the city that are covered by this division. Such written notice shall include the address and a brief description of the rental

~~property; the name, street address and telephone number of the owner of the property; the name, street address and telephone number of the managing agent, if any; and the name, street address and telephone number of the person that is responsible for maintaining the rental properties.~~

(b) No owner, managing agent, or other person in control of any dwelling unit located in the areas covered by this division shall continue to make such property available after January 1 of each year as rental property until said dwelling or dwelling unit shall have been registered with the building official. The owner or agent shall certify on a renewal registration form provided by the building official that he/she has been made aware of the minimum habitable standards as outlined in Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and that the rental property to be registered meets these standards and is in compliance with these provisions and all other applicable codes, standards and ordinances. Such receipt of this certification compliance shall be evidenced by a certificate of registration issued by the building official to be displayed in the rental unit.

~~(b)~~ (c) In the event the ~~building official~~ director of community planning and development furnishes the owner or managing agent with information forms requesting certain information regarding rental properties, the owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, shall complete such forms and return them to the ~~director~~ building official within the designated time period.

~~(e)~~ (d) It shall be a violation of this division for an owner or managing agent to fail or refuse to ~~provide~~ register any rental dwelling unit with the department of community planning and development ~~with such information~~ or to provide false or misleading information.

Sec. 11-62.5. Inspection of rental properties.

(a) The building official ~~director of community planning and development~~ shall cause an periodic inspections to be made of ~~each dwelling or dwelling units~~ located in those areas of the city covered by this division ~~on a biennial basis~~ to ensure compliance with this division. After such inspection, the owner and the managing agent, if any, will be provided with a list of any violations found and the date by which such violations must be corrected. The failure to correct such violations within the designated time period shall constitute a violation of this division and also may result in revocation of the certificate of ~~occupancy~~ registration or certificate of compliance.

(b) Upon determination that the ~~dwelling or dwelling unit~~ is in compliance with ~~Volume II – Building Maintenance Code~~ Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and all other applicable codes, standards and ordinances, a certificate of compliance will be issued to the owner or managing agent.

Section 11-62.6. Code enforcement ~~Inspection~~ fees.

There shall be a code enforcement fee annually to accompany the registration of each dwelling unit located in those areas of the city covered by this division. If an inspection is performed as a result of a periodic inspection or a complaint, there shall be no charge for this inspection. In the event any repairs or corrections are deemed necessary and a second inspection is required, there shall be no charge for the initial second follow-up inspection. is required, there shall be no charge for the second inspection. In the event a third or subsequent inspection is required, the owner shall be charged an reinspection fee for each inspection of a dwelling or dwelling unit. The code enforcement fees will be as determined by city council from time to time and a copy of the schedule of fees will be kept in the office of the inspections division of community planning and development and shall be available for review upon request. No certificate of compliance shall be issued until all inspection fees have been paid and all violations have been corrected.

Sec. 11-62.8. Permits

The owner is responsible for complying with all permit and licensing requirements required by the Virginia Uniform Statewide Building Code and other ordinances in effect for the City of Lynchburg.

Sec. ~~11-62.8.~~ 11-6.9 Violations.

(a) It shall be unlawful for any owner, ~~managing agent, or other person~~ to fail to comply with the requirements contained in this division.

(b) Any person failing to comply with the requirements of this division shall be ~~guilty of a class 2 misdemeanor~~ punishable by a fine of not more than \$2,500. Each day such violation continues shall constitute a separate punishable offense.

Sec. ~~11-62.9.~~ 11-62.10. Enforcement.

~~The building official director of community planning and development~~ and his authorized agents are hereby empowered to enforce all of the provisions of this division, to act pursuant to the authority contained herein and to perform all the duties required thereby.

Sec. ~~11-62.10.~~ 11-62.11. Temporary waiver.

(a) Any owner or managing agent whose rental property is inspected and found not to be in compliance with the code may petition the ~~building official director of community planning and development~~, in writing, for a temporary waiver of compliance. The petition shall be on a form provided by the ~~director~~ building official and shall contain the information therein requested and which may be reasonably necessary to its decision, and shall include a written statement signed by the applicant, acknowledging the actions needed, specifying the anticipated date of beginning and completion of the work, and if known, the name of the person or company that will perform the work. If the ~~director~~ building official finds that:

1. The delay in the correction of the violation is reasonable, taking into the consideration the availability of qualified persons to do the work and the current work load; and

2. The work can be reasonably undertaken and completed while the premises are occupied or that appropriate provision has been made for housing the tenant elsewhere when the dwelling or dwelling unit will not be habitable because of the work of correcting violations; the ~~director~~ building official may issue a temporary waiver of compliance which will allow a reasonable period of time to achieve compliance. This period shall not be less than thirty (30) days nor more than ~~one hundred and twenty (120)~~ sixty (60) days. The applicant shall, on or before such date, request a reinspection and pay any registration fee that may be required by Section 11-62.6 of this division.

(b) No waiver granted under this section shall be valid unless in writing and signed both by the ~~director~~ building official or his designee and the applicant.

Sec. ~~11-62.11.~~ 11-62.12. Severability.

The provisions of this division are intended to be severable, and if any such provision be deemed or adjudged to be invalid or unenforceable, the remaining portions of this division shall remain in full force and effect with their validity unimpaired.

2. That this ordinance shall become effective upon its adoption.

Adopted:

Certified:

Clerk of Council

023L1

B.

RESOLUTION

BE IT RESOLVED that \$45,520 is hereby appropriated to the General Fund, fully reimbursable from increased revenue from the Code Enforcement Fees during the FY 2003, to fund wages/benefits, vehicle and office operation expenses for employment of a Rental Housing Inspector through June 30, 2003, close of the current fiscal year; and

BE IT FURTHER RESOLVED that the Financial Services Director is authorized to increase the projected FY 03 revenue from the Code Enforcement Fees by this same amount.

Introduced:

Adopted:

Certified:

Clerk of Council

023L2